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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,635	05/04/2001	Sami Shemtov	551-P-002	1568

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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/849,635

Applicant(s)

SHEMTOV, SAMI

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,3,5,9,18,19,21,25,33-35 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,5,9,18,19,21,25,33-35 and 37-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Objections***

Claim 18 is objected to because of the following informalities:

Claim 18 recites, "said top surface"; however, none of the preceding claim language introduces the top surface. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-3, 5, 9, 33-35 and 37-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 38 recites, "A coupling device for positioning a pair of electrical wire-carrying conduits to be supported by a supporting member"; however, none of the remaining claim language or claims further define the claimed invention of a coupling device. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88

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USPQ 478, 481 (CCPA 1951). Therefore, the Examiner will interpret the claims as a coupling device only, and any structural limitations of the support member will be treated as part of the preamble.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-3, 5, 9, 18, 19, 21, 25, 33-35 and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 3869154, Sanchez.

In regards to claim 38, as best understood, Sanchez discloses a coupling device (12) for positioning a pair of electrical wire-carrying conduits to be supported by a supporting member capable of being secured to a structure above the coupling device, the supporting member comprising a stem having a free end portion, the coupling device comprising a tubular member having opposed axially aligned ends, each of the ends adapted to receive one end of one of the pair of mating conduits, and the tubular member having a top surface and an aperture through the top surface adapted to be engaged by the free end portion of the stem of the supporting member, wherein the supporting member is positioned above the aperture on the top surface of the tubular member.

In regards to claim 39, Sanchez discloses a coupling device for (capable of) positioning a pair of electrical wire-carrying conduits to be supported by a supporting

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member capable of being secured to a structure adjacent the coupling device, the supporting member comprising a stem (23) having a free end portion,

the coupling device comprising an integral tubular member (12) having a generally cylindrical wall surrounding an interior space and opposed axially aligned ends, each of the ends adapted to receive one end of one of the pair of a mating conduit (not shown but implied), and the tubular member having an aperture (20) through the tubular wall into the interior space, the free end of the stem engaging the aperture to support the tubular member and is positioned in the interior space of the tubular member sufficient to engage the ends of the conduits received at the opposite ends of the tubular member.

In regards to claim 2, as best understood, Sanchez discloses the top surface being raised relative to the exterior surface of the tubular member.

In regards to claim 3, as best understood, Sanchez discloses the aperture being threaded internally and the stem, of the supporting member is externally matingly threaded at least at its free end for engaging into the internally threaded aperture.

In regards to claim 5, as best understood, Sanchez discloses a lock nut along the stem for locking the free end of the stem into the aperture.

In regards to claim 9, as best understood, Sanchez discloses a stop member projecting internally at about the middle of the tubular member.

In regards to claim 18, Sanchez discloses the top surface being raised relative to the exterior surface of the tubular member.

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In regards to claim 19, Sanchez discloses the aperture being threaded internally and the stem of the supporting member being externally matingly threaded at least at its free end for engaging into the internally threaded aperture.

In regards to claim 21, Sanchez discloses a lock nut along the stem for locking the free end of the stem into the aperture.

In regards to claim 25, Sanchez discloses a stop member projecting internally at about the middle of the tubular member.

In regards to claim 33, as best understood, Sanchez discloses the free end of the stem of the supporting member being positioned within the confine of the tubular member in contact with the pair of conduits.

In regards to claim 34, as best understood, Sanchez discloses each of the ends of the tubular member being externally threaded for receiving the conduit.

In regards to claim 35, as best understood, Sanchez discloses each of the ends of the tubular member further having an opening through the tubular member, the opening is internally threaded to receive a set screw for securely positioning the conduit.

In regards to claim 37, as best understood, Sanchez discloses the aperture being generally perpendicular to the longitudinal axis of the tubular member.

In regards to claim 40, as best understood, Sanchez discloses the tubular member further having a wall surrounding an interior space, wherein the aperture is adapted to receive the free end portion of the stem of the supporting member within the interior space.

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***Response to Arguments***

Applicant's arguments with respect to claims 2-3, 5, 9, 18, 19, 21, 25, 33-35 and 37-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 703-306-3436. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-306-5771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**ERIC K. NICHOLSON**  
**PRIMARY EXAMINER**